



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
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NEW YORK, NY 10007-1866

NOV 16 2006

Richard Tomer
Chief, Regulatory Branch
U.S. Army Corps of Engineers
New York District, Room 1937
26 Federal Plaza
New York, New York 10278-0090

Dear Mr. Tomer:

The U.S. Environmental Protection Agency (EPA) has reviewed the final environmental impact statement (EIS) for the proposed Route 92 Highway Project (CEQ # 20060417), Middlesex County, New Jersey. This review was conducted in accordance with Section 309 of the Clean Air Act, the National Environmental Policy Act (NEPA).

The project involves filling wetlands and open water to facilitate construction of a 6.7-mile, limited-access toll highway that would provide express east-west travel capacity for through traffic, and connect U.S. Route 1 in South Brunswick Township to U.S. Route 130 and the New Jersey Turnpike at Interchange 8A in Monroe Township, New Jersey. The applicant, the New Jersey Turnpike Authority (NJTA), seeks to discharge fill material into approximately 12.03 acres of wetlands and open waters with an additional 1.16 acre of shading from elevated sections of the roadway in and adjacent to Devil's Brook, Shallow Brook and unnamed tributaries within the Raritan River Watershed.

As you move toward a decision on this permit application, we recommend that the upcoming decision document and Clean Water Act Section 404 permitting evaluation address the issues listed below. We appreciate the considerable efforts that you have taken to date to evaluate this proposal, and look forward to continuing to work with you on these important issues.

Alternatives Screening

The final EIS appears to eliminate several road-widening alternatives from consideration because those alternatives do not include a physical link between US Route 1 and the New Jersey Turnpike. For example, CR-610/Deans Lane, Major Road, New Road, CR-535, Dutch Neck Road, and Hankins Road were not considered, using the lack of a physical link as a criterion (final EIS, Section 2.4 Existing Local and Secondary (County) Roadway Capacity Improvements, p. 2-11). Using the final EIS's articulation of a purpose and need statement, i.e., "to improve regional mobility, especially east-west mobility, for the central New Jersey area in and around southwestern Middlesex County and Northeastern Mercer County" (final EIS, Section 1.3 Project Purpose, p. 1-19), it is not clear that it would be appropriate to eliminate an alternative from consideration solely because there may not be a physical link between the two highways. In that regard, we suggest that the decision

document and permit evaluation clarify what parameters were used in the alternatives screening. Without a clearer understanding of how the alternatives screening was performed, EPA is concerned that the analysis in the final EIS may not demonstrate that the proposed project would be consistent with the Clean Water Act Section 404(b)(1) Guidelines. Given these outstanding issues, our previously stated concerns under the EPA/Army Clean Water Act Section 404(q) Memorandum of Agreement have not yet been fully addressed.

Surface Water Flows

We appreciate that impacts to surface water flows within the Devil's Brook watershed have been minimized by selective placement of culverts beneath the road and the use of two bridges. However, we recommend that the decision document examine any remaining potential impacts to surface water flows and consider any necessary mitigation measures, as appropriate. For example, the pilings from the elevated roadway would change the flow pattern of the surface water, resulting in more rapid flow in some areas and slower flow in others. A discussion of the issue should identify how the change in flow might alter habitat for aquatic-based species and influence erosion patterns.

Conceptual Wetlands Mitigation Plan

We recommend that the decision document provide additional information to support the conclusion, prior to a permitting decision, that the proposed conceptual wetland mitigation plan would offset the proposed project's wetlands impacts. In particular, we recommend that the decision document focus on whether wetlands hydrology can be established at the proposed mitigation site. In addition, we recommend the development of a specific written plan that outlines the methods for the proposed transplanting of southern arrowhead (*Sagittaria australis*), including post-project monitoring.

Air Quality Regional Emissions Analysis

EPA notes that the Route 92 project is not listed in the North Jersey Transportation Planning Authority's (NJTPA) 2007-2010 Transportation Improvement Program (TIP), and only the environmental study phase of the project is listed in the NJTPA 2030 long range transportation plan as an exempt project. As such, the emissions from this project have not been included in NJTPA's conforming plan and TIP. Pursuant to 40 CFR 93.122(a), this project qualifies as a regionally significant project, and prior to a permit decision, Route 92 should be included in the regional emissions analysis of a conforming plan and TIP. Consistent with 40 CFR 93.121(a)(3), the updated regional emissions analysis should include the existing transportation system, the projects from the current plan and TIP, and Route 92, and be conducted in accordance with 40 CFR 93.118 and 93.122. The analysis should also use the existing State Implementation Plan motor vehicle emission budgets for the NJTPA area. Moreover, since Middlesex County is part of the New York-Northern New Jersey-Long Island, NY-NJ-CT nonattainment area for particulate matter smaller than 2.5 microns (PM_{2.5}), the regional emissions analysis should evaluate PM_{2.5}.

We also understand that the New Jersey Turnpike Authority has re-applied for a New Jersey Department of Environmental Protection (NJDEP) freshwater wetlands permit for the Route 92 project. It is not clear how this re-application for the NJDEP permit affects the processing of the application for the Corps permit, and we suggest that the decision document clarify the relationship between these two related actions. Toward this end, we recommend that the Corps schedule a conference call with the applicant, NJDEP and EPA to discuss this matter.

In summary, we believe that there are important issues regarding this permit application that may warrant additional coordination between our agencies. We look forward to working with you as you reach a final decision on the application. In that regard, we will be contacting you shortly to schedule a meeting to discuss our comments in more detail. In the meantime, if you have any questions, please contact me or Dan Montella, Chief, Wetlands Protection Section, at (212) 637-3801.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "John Filippelli". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

John Filippelli, Chief
Strategic Planning Multi-Media Programs Branch